



Winston Hickox
Secretary for
Environmental
Protection



Gray Davis
Governor

MINUTES OF
REGULAR MEETING
Thursday and Friday May 30-31, 2002
REGIONAL WATER QUALITY CONTROL BOARD

Thursday, May 30, 2002, 1:30 p.m.

Chairman Gary Shallcross called the meeting of the Central Coast Regional Water Quality Control Board to order at 1:38 p.m. on May 30, 2002, in the Conference Room of the Central Coast Regional Board Office, 81 Higuera Street, Suite 200, San Luis Obispo, California.

1. Roll Call..... Executive Office Technician Carol Hewitt

Board Members Present:

Chairman Gary Shallcross
Vice Chair Leslie Bowker
Vice Chair Bruce Daniels
John Hayashi
Russell Jeffries
Daniel Press
Marco Rizzo
Donald Villeneuve

Absent:

Jeffrey Young

2. Introductions..... Executive Officer Roger Briggs

Executive Officer Roger Briggs introduced, Staff Counsel Jennifer Soloway, staff members Brad Hagemann, Christina St. Clair, and Carol Hewitt. Mr. Briggs asked all interested parties who wished to comment to fill out testimony cards and submit them. Supplemental Sheets are as follows: Item #3/Duke

Energy Morro Bay Power Plant and Item #5/Weyrich Development Co., Inc.

Our State Board Liaison is not here to join us today, however, as of last week, Mr. Gary Carlton was appointed to the State Board and designated as our new Liaison.

3. Duke Energy Morro Bay Power Plant [Michael Thomas 805/542-4623]..... Status Report

Michael Thomas, staff Water Resources Control Engineer, presented a brief update on the Morro Bay Power Plant project. Mr. Thomas provided background information on the power plant, the planned upgrade, the environmental studies that were done, and options for dealing with the impacts, and the over all schedule. Mr. Thomas briefly mentioned California Energy Commission staff's Final Staff Assessment for this project, which recommends a closed cooling system, and Tetra Tech's review of cooling alternatives, which concludes that closed

systems are feasible. Mr. Thomas summarized the habitat enhancement approach, compared the benefits of habitat enhancement with closed cooling, and concluded with staff's position that habitat enhancement offers more benefit to the Morro Bay Estuary (in terms if acre-years of larval productivity) over the long-term for less money.

Several speakers addressed the Board as indicated in the table below:

(Chair Shallcross announced a break at 3:35 p.m. The meeting reconvened at 3:48 p.m.)

**Speakers at Regional Board Meeting May 30, 2002,
Regarding the Morro Bay Power Plant**

Name	Affiliation
Andrew Trump: Presented a summary of Duke's overall project.	Duke Energy
David Mayer: Presented a summary of the benefits for the habitat enhancement approach.	Tenera Environmental
Dick Anderson: Presented a summary Energy Commission staff's Final Staff Assessment.	California Energy Commission
Dan Chia: Stated support for the Final Staff Assessment	California Coastal Commission
Rodger Anderson: Stated the City of Morro Bay's objection to dry cooling and support for the habitat enhancement approach.	Mayor, City of Morro Bay
Rob Schultz: As above. Stated that closed cooling would not conform with the City's Local Coastal Plan.	City Attorney, City of Morro Bay
Hank Roth: Opposed to dry cooling and supports habitat enhancement.	Resident, Morro Bay
James Wood: As above.	Resident, Morro Bay
Nelson Sullivan: Stated concern regarding data submitted by Duke Energy.	Resident, Morro Bay
Richard F. Smith, Ph.D.: Concerned with the health of the estuary. Stated that habitat enhancement will not address entrainment impacts.	CAPE
Gordon Willey: Stated opposition to dry cooling.	Resident, Morro Bay
Henriette Groot: Opposed to once-through cooling and the habitat approach.	CAPE
Babak Naficy: Stated that there is no nexus between entrainment impacts and habitat enhancement. Stated that there are other sources of funding for habitat enhancement and the Regional Board's TMDL.	Environmental Defense Center/CAPE
Tom Laurie: Stated that once-through cooling is outdated, and that the entrainment losses are understated.	CAPE
Jack McCurdy: Questioned the nexus between habitat enhancement and entrainment impacts.	CAPE
David Nelson: Questioned the amount of property owned by Duke Energy, saying closed cooling would fit on-site. Stated that alteration of the harbor mouth has caused major impacts.	Resident, Morro Bay
James Ross: Suggested modeling of once-through cooling.	Resident, Morro Bay
John Barta: Stated that dry cooling is not appropriate for Morro Bay, supports habitat enhancement.	Planning Commissioner/Resident of Morro Bay
James Maul: Opposed to dry cooling, supports habitat enhancement.	Maul Architects
Peter Wagner: Stated that dry cooling is guaranteed to eliminate entrainment, but habitat enhancement is an experiment.	Sierra Club
Ken Vesterfelt: Supports Duke Energy's proposal.	Resident, Morro Bay
Mandy Davis: Opposed to habitat enhancement. Stated that over 100 letters sent to Energy Commission is support of dry cooling.	Resident, Morro Bay
Gary Ryan: Opposed to dry cooling.	Resident, Morro Bay
John Baker: Opposed to dry cooling.	Resident, Morro Bay
Nancy Barta: Opposed to dry cooling.	Resident, Morro Bay
Ray McElligott: Recommends dry cooling.	Resident, Morro Bay

(Chair Shallcross announced a break at 5:20 p.m. The meeting reconvened at 5:27 p.m.)

Regional Board members offered several comments and gave direction to staff. The main questions/comments were:

1. Has an ocean intake structure been considered? Staff responded that this option was evaluated, and would result in moving impacts from one location to the other, rather than addressing the problem.
2. There are tangential issues with closed cooling, such as visual and noise impacts.
3. The nexus between habitat enhancement and entrainment impacts is important. Data should be provided that indicates the results of habitat enhancement projects. Larval productivity data would be best.
4. The Board requested that the City of Morro Bay provide information regarding its financial agreement with Duke Energy. City of Morro Bay staff agreed.
5. The issue of “up-front” funding versus “pay as you go” was also discussed regarding the habitat enhancement fund. The Board stated that the fund should be established up front.
6. The Board stated that an adequate monitoring program must be included with the habitat

enhancement option to evaluate success of the program, and that adequate funds must be directed toward stewardship of habitat that is purchased are preserved.

7. The Board asked that previous staff reports be provided to the newer members.

The Executive Officer pointed out that Duke Energy has not applied for discharge permit for a facility that uses a closed cooling system. The permit application is for a once-through cooling system, and staff’s procedure is to draft a permit in response to the submitted application. The Board may then accept, modify, or reject the draft permit. The Executive Officer also stated that if staff does not process the permit application, staff would draft a revised permit for the existing facility and that draft would include the habitat enhancement approach.

In conclusion, the Executive Officer said staff would proceed with drafting an NPDES permit with the habitat enhancement approach and would address the Board’s concerns in the draft. The Board agreed.

4. Stormwater Program Update [Jennifer Bitting 805/549-3334]..... Status Report

Regional Board staff member Jennifer Bitting, gave a overview of the Stormwater Program and responded to questions from the Board. Mr. Briggs committed to

keeping the Board updated on the State Board’s criteria development for designating Phase II communities.

(Board Member Rizzo left the meeting at 6:00 p.m.)

5. Weyrich Development Co., Inc. [Donnette Dunaway 805/549-3698]..... Order No. 2002-0028

Chairman Shallcross read the opening statement. Staff Engineering Geologist Donette Dunaway presented the proposed enforcement action details associated with mass grading a 90-acre residential construction site and related storm water permit violations. Ms. Dunaway incorporated the detailed Staff Report into her presentation by reference and summarized supplemental information proposed by staff and information provided by the Discharger’s legal counsel.

The Discharger’s case was presented by Mr. Dennis Law of Andre, Morris & Buttery Law Corporation, and Mr. Daniel Lloyd, Discharger’s Director of Development. The Discharger called Mr. Earl Coats of A.J. Diani Construction, and Mr. Mike Toohey, formerly of Weyrich Development Company, Incorporated, as their witnesses. Mr. Law asked that exhibits presented at the hearing, and submissions made before the hearing on behalf of the discharger be included in the record along with the Erosion and Sediment Control Field Manual. The files of the

Regional Board regarding the Site are also part of the record.

Regional Board members had several questions related to the Discharger's testimony and evidence.

Chair Shallcross adjourned the meeting at 9:15 p.m.

Because the four hour hearing lasted until 9:15 p.m., the Board permitted the Discharger and staff to make closing statements and closed the hearing but continued deliberations until Friday, May 31, 2002.

Friday, May 31, 2002, 8:30 a.m.

Chairman Gary Shallcross called the meeting of the Central Coast Regional Water Quality Control Board to order at 8:32 a.m. on May 31, 2002, in the Conference Room of the Central Coast Regional Board Office, 81 Higuera Street, Suite 200, San Luis Obispo, California.

8. Roll Call..... Executive Office Technician Carol Hewitt

Board Members Present:

Chairman Gary Shallcross
Vice Chair Leslie Bowker
Vice Chair Bruce Daniels
John Hayashi
Russell Jeffries
Daniel Press
Marco Rizzo
Donald Villeneuve

Absent:

Jeffrey Young

9. Introductions..... Executive Officer Roger Briggs

Executive Officer Briggs asked interested individuals to complete testimony cards and submit them. Supplemental Sheets are Item #14/City of San Luis Obispo, Item #15/San Simeon Community Services District, Item #17/Cuyama Community Services District, Item #21/City of Greenfield, Item #22/Black Road Land Treatment Unit, Item #23/ NH₃ Service Company, Item #24/Western Farm Service, Santa Maria, Item #25/Farm Supply, Paso Robles, Item #28/Monarch Grove Wastewater Reclamation Facility, Item #30/Morro Bay Siltation TMDL Letter from the National Estuary Program, Item #33/ Executive

Officer's Report Supplemental Sheet/City of Hollister Update and Proposition 13 Grant Proposals Update. Mr. Briggs introduced Brad Hagemann, Christina St. Clair, Carol Hewitt, and noted that Jennifer Soloway, staff counsel, would be arriving shortly. Mr. Briggs noted that a new State Board Member has been appointed, Gary Carlton. Mr. Carlton is designated to be our Liaison at the State Board for our Region and we look forward to seeing him at our meetings in the future. Changes in the agenda: Item #18/Goleta Sanitary District, is deferred until the July Board meeting. Item #5 will be taken up at about 9:00 a.m.

6. Enforcement Report..... Assistant Executive Officer Brad Hagemann

Board Member Daniels asked about the 500-1000 gallon spill limitation for Discharger reporting. Brad Hagemann clarified that the Regional Board sent out a policy stating the agency expectations. He said the Board prefers the Discharger to report spills of lower

volume than what the State law requires. Board Member Daniels asked if the agency requires reporting for private laterals spills. Mr. Hagemann noted that the agency normally does require reporting for these types

of spills and that the local collection system agencies provide feedback on the spills.

7. MTBE Sites [Jay Cano 805/549-3699] Status Report

The Regional Board asked questions about the methyl tertiary-butyl ether (MTBE) plume in groundwater migrating from the Chevron Cambria service station, Santa Rosa Creek, and in fractured bedrock. Sheila Soderberg, staff geologist, indicated that MTBE has not been detected (<0.5 ppb) in near-surface groundwater samples collected along the creek bank or in surface water samples collected from Santa Rosa Creek. Ms. Soderberg also indicated that the center of the mass of the MTBE plume appears to be contained.

Regarding the possible presence of MTBE in the fractured bedrock, Ms. Soderberg indicated that MTBE has been detected in one groundwater monitoring well installed in bedrock, MW-30. However, well construction of MW-30 is suspect and there could be cross-contamination from the overlying alluvium.

Since installation, MTBE has not been detected in two onsite and one offsite, bedrock, groundwater-monitoring wells. Regional Board staff is currently reviewing Chevron Products Company's report entitled *Site Conceptual Model Addendum for Bedrock*.

Mr. Jon Rohrer, Komex H2O Science, consultant to the Cambria Community Service District (CCSD), indicated that "plume containment" is interpretative, especially since there are no ground water monitoring wells either between the edge of the MTBE plume or within Santa Rosa Creek.

Ms. Helen Mays, President of the CCSD Board of Directors, and Mr. Steve Little of SECOR International, Inc., representing Chevron Products Company, were present to address any of the Regional Board's questions.

11. Public Forum Board Direction

- Robert Brown – Arroyo Grande resident and member of the South County Historical Society. Mr. Brown wrote a book on the Arroyo Grande Creek. The book is a history of the town of Arroyo Grande as it revolves around the creek. Mr. Brown expressed his gratitude for the work that the Regional Board does. He gave the Board a copy of his book.
- Rochelle Becker – San Luis Obispo Mothers for Peace. Ms. Becker asked if the Diablo Settlement has been settled as yet. Jennifer Soloway

responded "no." Ms. Becker asked the Board to reconsider signing the settlement. The Mothers for Peace request that the Board abandon the mitigation settlement and require PG&E to put in an alternate cooling system to prevent thermal pollution that is damaging the coast. She also noted that PG&E is planning to store radioactive waste adjacent to the proposed mitigation settlement land.

10. Approval of Minutes for April 19, 2002 Meeting Board Motion

MOTION: Bruce Daniels moved to approve the minutes for the April 19, 2002 meeting. **SECONDED** by John Hayashi. **CARRIED** – Unanimously (8-0)

5. Weyrich Development Co., Inc. [Donnette Dunaway 805/549-3698]..... Order No. 2002-0028

Following considerable discussion and deliberation, Board Member Press suggested assessment of an amount of \$1000 per day for the 93 days of violation in addition to the staff's recommended liability of

\$99,375. The Board Members modified the findings in the draft Order to include reasons for the liability amount.

MOTION: Bruce Daniels moved to approve Order No. 2002-0028 with the following revisions:

1. Approve Order No. 2002-0028 with an added finding drafted by Jennifer Soloway, the Regional Board's legal counsel, in accordance with Board discussion during deliberations.
2. The Liability amount to be increased by \$93,000 (based on \$1000 per day of violation) for a total of \$192,375.
3. Editorial changes suggested in the Regional Board staff's supplemental information be incorporated.

SECONDED by Russell Jeffries. CARRIED – (7-0) (Marco Rizzo abstained)

12. Low Threat Cases..... Information/Discussion

Executive Officer Briggs recommended that staff proceed on the following Low Threat cases: Celite Corporation (enrolled in NPDES Permit), Carmel Valley County Sanitation District (enrolled in statewide General Waste Discharge Requirements),

Watsonville Youth Center and Former AAMCO Facility (closed cases), Love Chevrolet and Beacon Truck Stop (cases recommended for closure). The Board approved the recommendation.

13. Uncontested Items Board Motion

Supplemental Sheets are as follows: Items 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29. Item 16/Abalone Farm, Inc. was pulled off the consent agenda. Board Member Jeffries asked about Item 17/Cuyama Community Services District and the

reason for the 2004 date for sludge monitoring. Staff responded that the 2004 date was chosen because it was a mid-point for the permit and indicated the volumes involved were extremely low.

MOTION: Russell Jeffries moved to approve the consent calendar. SECONDED by Don Villeneuve. CARRIED – Unanimously (8-0)

14. City of San Luis Obispo WWTP, San Luis Obispo County [Mike Higgins 805/542-4649]... Order No. 2002-0043

Board Member Daniels requested to remove the item from the consent calendar. Mr. Daniels questioned staff about several aspects of the discharge, including the proposed Order's new total coliform limit, which would increase from 2.2 MPN/100 mL to 23 MPN/100mL. Staff explained the basis for increasing the limit, and pointed out options to modify the proposed limit. Mr. John Moss, City of San Luis

Obispo Utilities Director answered several questions from Board members, including the City's plans for future wastewater reclamation. Based on discussion with the Discharger's staff, Mr. Briggs recommended the proposed Permit have a new effluent limitation, which limits fecal coliform to 2.2 MPN/100 mL while retaining the previously proposed total coliform limit of 23 MPN/100 mL. Mr. Daniels also questioned staff

regarding the proposed Order's removal of acute toxicity testing, with the chronic toxicity test to be used

to measure acute toxicity.

MOTION: Russell Jeffries moved to approve Order No. 2002-0043 with the proposed changes in effluent limitation. SECONDED by Leslie Bowker. CARRIED – (8-0)

(Chair Shallcross announced a break at 10:15 a.m. The meeting reconvened at 10:25 a.m.)

16. Abalone Farm, Inc., San Luis Obispo County [Matt Thompson 805/549-3159]..... Order No. 2002-0057

Mr. Ray Fields, President of Abalone Farm Inc., protested two requirements of the proposed permit; the prohibition of discharge of exotic species, and the requirement to monitor effluent for the toxic chemicals listed in Table B of the California Ocean Plan. Mr. Fields stated that the prohibition of discharge of exotic species could be redundant with Department of Fish and Game regulations. He further stated that none of the chemicals listed in Table B of the Ocean Plan are used at his facility, therefore, could not be in effluent. The toxic chemical testing would cost the Abalone

Farm approximately \$6,000. Board Member Villeneuve stated that such chemical testing would be "superfluous", considering the nature of abalone farming operations. Regional Board staff, Matt Thompson, stated that the Regional Board could choose to revert back to the language of the original permit, which allows the discharger to submit annual certification that toxic chemicals are not used at the facility, in lieu of effluent monitoring for such chemicals. Board Member Press asked Mr. Fields about their kelp harvesting and feeding practices.

MOTION: Donald Villeneuve moved to adopt Order No. 2002-0057 with the change that the discharger be allowed to submit annual certification in lieu of effluent monitoring for toxic chemicals. Seconded by Leslie Bowker. CARRIED - Unanimously (8-0).

30. Morro Bay Siltation Total Maximum Daily Load [Dominic Roques 805/542-4780]....Resolution No. 2002-0051

Regional Board staff, Dominic Roques, gave a presentation about the proposed Basin Plan Amendment, including: adoption of TMDLs for Chorro Creek, Los Osos Creek, and the Morro Bay Estuary; adoption of numeric targets for streambed sediment, turbidity, and tidal prism volume; and adoption of the TMDL implementation plan.

During the presentation Board members raised questions to clarify points on sources of sediment and yields from different land uses. Staff provided clarification and some additional information to the satisfaction of Board members.

At the conclusion of the presentation, Board Member Press applauded staff's efforts and expressed support for the adaptive management approach and its

recognition that some experimenting is necessary to effectively address water quality problems in the context of high natural variability and uncertainty.

Board Member Daniels inquired whether the linkage between beneficial use impacts and numeric targets would be good enough to satisfy scrutiny, and would not suffer the same fate as the nitrate TMDL for the San Lorenzo River. Watershed Assessment unit supervisor, Lisa McCann, responded that the adaptive management approach used in this TMDL will allow for improving the linkage over time, and that scientific peer review conducted for this TMDL, sanctioned the approach.

Board Members had no further comments.

MOTION: Bruce Daniels moved to approve Resolution No. 2002-0051. **SECONDED** by Daniel Press.
CARRIED – Unanimously (8-0)

31. Report by State Water Resources Control Board Liaison Status Report

Executive Officer Briggs announced that Mr. Gary Carlton has been appointed to the State Board and will

be the new liaison for Regions 1, 2, and 3. We are looking forward to seeing Mr. Carlton at our meetings.

32. Reports by Regional Board Members Status Report

Board Member Daniels referenced a newspaper article about a situation in the San Lorenzo area. A dry cleaner's solvents leaked into the river and the business went bankrupt about ten years ago. The EPA has decided to make the site a Superfund site. Mr. Briggs noted that some cleanup occurred at the site in 1992, under Regional Board oversight. A septic tank was removed and the dry cleaner's went out of business shortly after. The Regional Board lobbied for Cleanup and Abatement Account funds in order to continue the work, however, the funding was not approved. USEPA investigated the site in 1992, but concluded it

was low priority, but then contacted the Regional Board in 2000 about a possible site cleanup, which Regional Board staff encouraged. Staff Engineer, Harvey Packard, provided additional background and information on the site, indicating that the consideration of using Cleanup and Abatement Account funds stopped due to legal (liability) concerns. Counsel Soloway also noted that the mission of the Regional Board includes overseeing such cleanups, while the US EPA has the capabilities of actually performing the cleanups.

(Chair Shallcross announced a lunch break at 11:45 a.m. The meeting reconvened at 12:35 p.m.)

33. Executive Officer's Report Information/Discussion

Executive Officer Briggs reported on the cruise ship issue. Letters of commitment have been sent from Royal Caribbean, Crystal Cruises, and Princess Cruises confirming that they will not discharge wastewater within the Monterey Bay Sanctuary while they are offshore. Thank you letters have been sent to the Regional Board from Save Our Shores, and an email from The Ocean Conservancy expressing appreciation for our efforts with this issue. They also asked the Regional Board to support the establishment of a legally binding "no discharge zone" for any waste from larger passenger vessels in the Monterey Bay Sanctuary waters. The Regional Board will send a letter to the Task Force supporting a "no discharge policy" for the cruise ships. Eric Gobler noted that the two cruise ships are scheduled to arrive in September 18 and October 9 this year and will afford the Regional

Board an excellent opportunity to look at their environmental technical devices.

Board Member Jeffries asked about nitrate testing on the Loma Alta Farm. Bill Arkfeld responded that he sampled at ten points and analyzed for nutrients. The raw data has been collected and shared with Mr. Fallon. Mr. Fallon has additional information that will need to be incorporated into the report. Board Member Jeffries asked about past records of manure removal. Mr. Arkfeld noted that the past records are incomplete. Records will be kept onsite so they can be audited by Regional Board staff.

Board Member Jeffries asked if the De Laveaga Golf Course applied for a permit for revamping the course. He is concerned about erosion during the rainy season.

Mr. Briggs will keep the Board posted on the permitting process.

Executive Officer Roger Briggs summarized written materials provided to the Board members for this item regarding recent wastewater treatment and disposal issues at the City of Hollister's Domestic and Industrial Wastewater Treatment Facilities. Issues included seepage of wastewater from a disposal pond at the Domestic Wastewater Treatment Facility, reported flow violations, and catastrophic failure of a disposal pond levee and subsequent discharge of approximately 15 million gallons of treated wastewater to the San Benito River channel. Mr. Briggs discussed Cleanup or Abatement Order R3-2002-082, issued to the City of Hollister on May 30, 2002, which requires the City to submit various technical reports, and keeps in effect, at the Regional Board's discretion, the City's self-imposed building moratorium. Mr. Briggs indicated additional enforcement action against the City of Hollister, as appropriate, would be brought to the Board for consideration at the September meeting. Possible actions include the Regional Board issuing a Cease and Desist Order and/or a complaint for administrative civil liability, and reopening for revision

the City's Waste Discharge Requirements. Regional Board staff answered Board member questions.

Mr. Briggs noted the Proposition 13 Grant Proposal and will keep the Board informed on how the process proceeds.

One of the Board members has requested a field trip at the Tajiguas Landfill. We are working with Santa Barbara County to set up a trip for the Fall (October 31, 2002). Another field trip request originated from the Santa Clara Valley Water District. The District has sent letters to the Board inviting the Board to join them on a field trip on August 2, 2002. We will contact the Board for a head count as the date gets closer.

Art Baggett has scheduled a timber meeting for Board Chairs on July 17, 2002 in Sacramento.

The Regional Board Offsite meeting will be held on Wednesday, June 19, 2002 from 10:00 a.m. to 1:00 p.m.. The annual staff awards meeting/BBQ will also be held on that afternoon from 2:00 p.m. to 5:00 p.m. Mr. Briggs asked the Board for ideas for the Board meeting agenda.

Chairman Shallcross adjourned the public meeting at 2:10 p.m.

The meeting was audio recorded and the minutes were reviewed by management, and approved by the Board at its July 12, 2002 meeting in San Luis Obispo, CA.



Gary Shallcross, Chair